

Docket No. 2019-232-A

Procedure to Address Conceptual Issues Around Non-Allowable Expenses

#	Expense Category	Description	Allowable	Non-Allowable
1	Imprudent or excessive Expenses	Includes, but is not limited to, imprudent construction and investments, excessive compensation and management fees, uneconomic management of costs and failure to achieve cost savings.	Prudent expenses in these categories are allowable.	Imprudent expenses require a fact determination within a rate case.
2	Lobbying and political advertising	Expenses associated with political purposes. Political advertising means any advertising for the purpose of influencing public opinion with respect to any legislative, administrative action or candidate election or with respect to any controversial issue to be decided by public voting. Includes expenses for lobbying but not expenses for appearances before regulatory or other governmental bodies in connection with a utility's existing or proposed operations. Includes, but is not limited to, monetary contributions, donations, and professional or trade association dues associated with lobbying or political advertising.	Trade association dues not associated with lobbying. ¹	Lobbying expenses, including donations, monetary contributions, etc.
			Customer and stakeholder educational materials.	Trade association dues attributable to lobbying.
3	Political, charitable, social and community contributions	Includes, but is not limited to, monetary contributions, donations, sponsorships and in-kind contributions.	Reasonable sponsorships and in-kind contributions reasonably associated with community	Monetary contributions, monetary donations not allowed for recovery.

¹ Order No. 2012-951 at 32, Docket No. 2012-218-E (Dec. 20, 2012) (Commission found that testimony filed by utility concerning the benefits that EEI provides in storm response planning and coordination, exchange of best practices and benchmarking information among utilities, peer learning and other information exchange among utilities, and the education of consumers concerning energy efficiency measures, provided “a sufficient and credible factual basis for determining that EEI membership does in fact provide benefits to SCE&G’s operations sufficient to support treating a portion of the resulting dues as a prudent expense of electric operations.”).

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			activity in Duke-served communities	Sponsorships not reasonably associated with the utility.
4	Institutional advertising	Advertising conducted for the purpose of promoting the corporate image or goodwill of the utility to include, but is not limited to, sponsorships of sports teams, community events, and concerts. Includes advertising to promote increased consumption of utility service.	<p>Advertising designed to promote Commission approved or otherwise regulated products and services; energy efficiency and billing programs/services, regardless of forum.²</p> <p>Reasonable advertising to promote increased use of electric service (like EVs) allowed.³</p>	<p>Goodwill and brand/image advertising</p> <p>Advertising for non-regulated products and services</p>

² Order No. 1982-676 at 14, Docket Nos. 1982-239-G and 1982-257-G (Sept. 29, 1982) (“This Commission has traditionally adhered to a treatment of advertising expenses which were incurred during the relevant test year and which were related to energy conservation or information dissemination. Patently, any advertising expenses so allowed must be of benefit to the ratepayers in order to be deemed appropriate for ratemaking purposes.”).

³ 18 C.F.R. Pt. 101, FERC Uniform System of Accounts, 913 Advertising Expenses (Major Only) (“This account shall include the cost of labor, materials used and expenses incurred in advertising designed to promote or retain the use of utility service, except advertising the sale of merchandise by the utility.”).

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5	Recreation, entertainment or non-essential employee benefits	Includes, but is not limited to, social, recreational, fraternal or religious clubs, employee parties and events, trade-show hospitality meetings, rental for event space, sporting event tickets, employee incentive and service awards, travel expenses including valet, concierge service and airfare upgrades, spousal travel, mortgage expense for employee relocation, employee gifts and refreshments, non-essential employee training, employee competitions for professional recognition, membership and association dues for non-professional social, fraternal, religious, civic and leadership organizations and promotional items.	<p>Reasonable business-related travel accommodations, including valet or airfare upgrades which result in saved employee time or cost given baggage policies or work space on plane, etc.⁴</p> <p>Chamber of Commerce dues,⁵ Farm Bureau dues etc.</p> <p>Employee events, such as reasonable and non-extravagant team lunches.</p> <p>Employee training and professional organizations.</p> <p>Employee refreshments, excluding alcohol.⁶</p>	<p>Spousal travel</p> <p>Religious clubs, country club dues</p> <p>Non-professional social or religious organizations</p> <p>Alcohol</p>

⁴ Order No. 2001-887 at 30, 33, Docket No. 2000-207-WS (Aug. 27, 2001) (permitting the recovery of costs associated with the hearing); Order No. 1991-595 at 24, Docket No. 1990-626-C (Aug. 20, 1991) (permitting the recovery of costs associated with “meals related to travel and overtime”).

⁵ Order No. 2019-341 at 81, Docket No. 2018-318-E (May 21, 2019) (“We . . . have long-recognized that Chamber of Commerce dues are 50% allowed.”) (citing Order No. 1994-1229 at 26, Docket No. 1993-503-C (Dec. 5, 1994); Order No. 1996-15 at 30-31, Docket No. 1995-1000-E (Jan. 9, 1996); Order No. 2001-887 at 36, Docket No. 2000-207-WS (Aug. 27, 2001); Order No. 2002-285 at 11, Docket No. 2001-164-WS (Apr. 18, 2002)); Order No. 1996-15 at 31, Docket No. 1995-1000-E (Jan. 9, 1996) (“[T]he Chamber of Commerce is an organization that is useful for recruiting industry into South Carolina, which ultimately inures to the benefit of the ratepayers of South Carolina.”); Order No. 1994-1229 at 26, Docket No. 1993-503-C (Dec. 5, 1994) (A utility’s participation in Chambers of Commerce “is of value and benefit to the community as Chambers of Commerce provide access to services for small businesses which they would not have otherwise. Moreover, Chambers of Commerce improve community images.”).

⁶ Order No. 1990-694, Docket No. 1989-610-WS (Aug. 1, 1990) (Grocery items, including coffee, “are not unusual or extravagant and can be considered a necessary part of a decent working environment. These expenses, in the Commission’s opinion are properly included in allowable expenses.”).

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			Employee competitions, e.g., lineman's rodeo. ⁷	
			Employee incentive and service awards ⁸	
			Reasonable and customary employee relocation expenses. ⁹	
			Memberships in economic development and community organizations where reasonably related to job performance, including but not limited to such as community relations and economic development managers.	
	Recreation, entertainment or non-essential employee Benefits (continued)			

⁷ Order No. 2019-341 at 106, Docket No. 2018-318-E (May 21, 2019); Order No. 2019-323 at 30, Docket No. 2018-319-E (May 21, 2019).

⁸ Order No. 2019-323 at 56-57, Docket No. 2018-319-E (May 21, 2019) (The Commission reasoned that “[i]ncentive compensation, particularly that of non-executive level employees, is merely a portion of overall employee compensation expense and a prudently incurred cost of service.”); Order No. 2005-42 at 31, Docket No. 2005-212-S (Feb. 2, 2005) (While this Commission’s decisions are often based on the prudence or imprudence of management decisions . . . this Commission has no authority to manage the utility.”); Order No. 2012-951 at 28, Docket No. 2012-218-E (Dec. 20, 2012) (“The Commission finds that there are sound reasons for offering incentive compensation as part of a competitively reasonable compensation package.”).

⁹ Order No. 1991-362 at 32, Docket No. 1989-229-C (May 28, 1991) (permitting recovery of employee moving expenses based on a four-year average); Order No. 1993-465 at 25, Docket No. 1992-619-E (June 7, 1993) (permitting the recovery of employee moving and relocation expenses based on a five-year average); Order No. 91-1140 at 8-9, Docket No. 1991-216-E (Dec. 18, 1991) (concluding that moving expenses were known and measurable and appropriate for ratemaking purposes).

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6	Development grants and sponsorships	Includes, but is not limited to, meals, meetings, donations, grants, dues, memberships, contributions and sponsorships for regional development alliances, economic development partnerships, homebuilders and realtors. Natural gas utilities may submit reasonable development expenses.	Economic development costs. ¹⁰	
7	Criminal and civil penalties, fines and judgments	Includes, but it not limited to, all associated liabilities, settlements and legal expenses for criminal or civil penalties, fines and judgments.	Settlements, ¹¹ judgments, and associated legal expenses should be evaluated on a case-by-case basis.	No fines or penalties recoverable.

¹⁰ Order No. 2015-588 at 1, Docket No. 2011-265-E (Aug. 12, 2015); Order No. 2015-587 at 1, Docket No. 2011-203-E (Aug. 12, 2019); Order No. 2015-589 at 1, Docket No. 2015-251-E (Aug. 12, 2019); Order No. 2015-590 at 1, Docket No. 2015-252-E (Aug. 12, 2015) (“This Commission has long supported economic development on the part of our utilities as being in accord with State economic development policy, and past approvals of such contracts and tariffs have been routinely granted.”); Transcript of Allowable Ex Parte Briefing at 9-10, The Honorable Robert M. Hitt III, South Carolina Secretary of Commerce, *Allowable Ex Parte Communication Briefing Regarding Commerce Overview, Current Economic Development Activity, and Role Energy Plays in Recruiting and Growing Business* (Sept. 19, 2019) (“When BMW established its South Carolina facility, they had special needs for startup and ongoing electricity. South Carolina was able to be flexible in working with them. BMW is a proven case study of how one company saying yes can be so impactful and transformative.”).

¹¹ Commission Directive at 2, Docket No. 2018-318-E (June 19, 2019) (“The Company’s decision to defend itself and to enter into the settlement was a strategic, reasonable, and prudent decision, and a decision that had a net benefit to ratepayers of \$50 million. Therefore, the CertainTEED litigation cost adjustment of \$830,000 should be recoverable.”).

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8	Merger and acquisition	Includes, but is not limited to, transaction costs incurred in connection with an acquisition or merger including all legal fees and expenses, regulatory filing fees, expenses related to developing, pursuing and obtaining regulatory approvals, accounting fees, costs related to securities and proxy solicitations, financial advisory fees and investment banking fees. Includes, but is not limited to, transition costs incurred in connection with an acquisition or merger to integrate the purchased entity into the acquiring entity. Including, but not limited to, acquisition premium (goodwill) costs and fair value or purchase price allocation adjustments.	Where mergers and/or acquisitions benefit ratepayers, these expenses should be recoverable. ¹²	

¹² Order No. 1996-15 at 21-22, Docket No. 1995-1000-E (Jan. 9, 1996) (“The Commission believes that the Company’s position is correct and that the Urquhart turbine is a proper addition to rate base. The Commission also approves the amount of the amortization of the acquisition adjustment and its inclusion in expenses recoverable through rates.”); Order No. 2018-369 at 13, Docket No. 2017-28-S (June 1, 2018) (“The Synergy merger expenses have benefited and will continue to benefit both the ratepayers and Company. The Commission recognizes that public utilities incur legal costs, both for corporate governance and for regulatory compliance. Public policy should encourage public utilities to comply with both corporate and regulatory law. The merger costs are justified, and will be allowed to be amortized over three years.”).

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9	Inflation, expense estimates and contingencies	Includes, but is not limited to, expense amounts that contain estimates such as Consumer Price Index ("CPI"), are not known and measurable or do not reflect the historic 12-month test period. Not applicable to natural gas purchased gas adjustment and electric fuel adjustment clause proceedings.	Such items are typically included in a utility's pro forma adjustments within a rate case proceeding and should be valued on a case-by-case basis. ¹³	

¹³ *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 291, 422 S.E.2d 110, 115 (1992) (citing *Michaelson v. New England Tel. & Tel. Co.*, 121 R.I. 722, 404 A.2d 799 (1979)) ("As this Court held in *Southern Bell Telephone v. Public Service Commission*, *supra*, adjustments for known and measurable changes in expenses may be necessary in order that the resulting rates reflect the actual rate base, net operating income, and cost of capital. The adjustments are within the discretion of the Commission and must be known and measurable within a degree of reasonable certainty. Absolute precision, however, is not required."); *Porter v. S.C. Pub. Serv. Comm'n*, 328 S.C. 222, 230, 493 S.E.2d 92, 97 (1997) ("Absolute precision is not required so long as adjustments are 'known and measurable within a degree of reasonable certainty.'" (quoting *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 291, 422 S.E.2d 110, 115 (1992))).